

Bul No 0-82-05 (as amended)
ORDINANCE NO. 5-88-82

An Ordinance concerning the construction of additions and improvements to the sewage works of the City of Fort Wayne, the issuance of connection revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the holders of said connection revenue bonds, other matters connected therewith and repealing ordinances inconsistent therewith

WHEREAS, the City of Fort Wayne has heretofore established, constructed and financed sewage works pursuant to Chapter 61 of the Acts of the Indiana General Assembly for the year 1932 (Special Session), and now owns and operates said sewage works pursuant to I.C. 36-9-23 (the "Act"); and

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, now finds that said sewage works is in need of certain additions and improvements to construct interception sewers being partially financed by federal and state grants; that plans and specifications for said additions and improvements have been approved by said Council and by all governmental authorities having jurisdiction, particularly the Stream Pollution Control Board of the State of Indiana; and

WHEREAS, the Board of Public Works and Safety has advertised for and received bids for the construction of said additions and improvements; that said bids are subject to the City's determination to construct said works and subject to the City's obtaining funds to pay for said works; that on the basis of said bids the cost of said works, over and above the amounts available from said federal and state grants, to be financed by revenue bonds, as outlined at I.C. 36-9-23-11, including funded reserves and estimated incidental expenses, is in the amount of Four Million Dollars (\$4,000,000); and

WHEREAS, the Common Council finds that the cost of said additions and improvements cannot be provided for out of funds of the sewage works now on hand or to be received prior to the completion thereof; that funds to apply on the cost should be provided by the issuance of additional revenue bonds payable

solely out of the net revenues of the City's sewage works; that the financial advisor to the City of Fort Wayne has advised that reserves in the amount of \$600,000 funded by bond proceeds are necessary expenses in financing the works and that the engineer has included those reserves in the estimate of the aforementioned cost of the works; and

WHEREAS, the Common Council intends that the connection fees of approximately 2,350 resident users of the sewage works will be applied to payment on the bonds and that said fees will legally be classified as net revenues pursuant to I.C.

36-9-23-29; and

WHEREAS, the Common Council finds that there are now outstanding bonds issued on account of the construction and improvement of the City's sewage works and payable out of the net revenues therefrom designated "Sewage Works Improvement Revenue Bonds," (hereinafter the "1959 Bonds") dated November 1, 1959, now outstanding in the amount of One Million Eighty-five Thousand Dollars (\$1,085,000), bearing interest at the rates of three and seven-eighths percent ($3 \frac{7}{8}\%$) or three and one-quarter percent ($3 \frac{1}{4}\%$) per annum, depending on the maturities, maturing on August 1 in the years 1982 to 1990 inclusive, which bonds constitute a first charge upon the net revenues of the sewage works; and

WHEREAS, the Common Council finds that there are also outstanding bonds issued on account of the construction and improvement of the City's sewage works and payable out of the net revenues therefrom designated "Sewage Works Improvement Revenue Bonds of 1961," (hereinafter the "1961 Bonds") dated August 1, 1961, now outstanding in the amount of One Million One Hundred Ninety Thousand Dollars (\$1,190,000), bearing interest at the rate of three and three-quarters percent ($3 \frac{3}{4}\%$) per annum, maturing on August 1 in the years 1982 to 1993 inclusive, which bonds are on a parity with the 1959 Bonds and also constitute a first charge upon the net revenues of the sewage works; and

WHEREAS, the Common Council finds that there are also outstanding bonds issued on account of the construction and improvement of the City's sewage works and payable out of the net revenues therefrom designated "Sewage Works Improvement Revenue Bonds of 1970," (hereinafter the "1970 Bonds") dated April 1, 1970, now outstanding in the amount of Two Million Two Hundred Fifty-five Thousand Dollars (\$2,255,000), bearing interest at the rates of six and seven-tenths percent (6.7%), six and five-tenths percent (6.5%), six and seven-tenths percent (6.7%), six and nine-tenths percent (6.9%) or seven percent (7.0%) per annum, depending on the maturities, maturing on August 1 in the years 1982 to 1995 inclusive, which bonds are on a parity with the 1959 Bonds and 1961 Bonds and also constitute a first charge upon the net revenues of the sewage works; and

WHEREAS, the Common Council finds that there are also outstanding bonds issued on account of the construction and improvement of the City's sewage works and payable out of the net revenues therefrom designated "Sewage Works Improvement Revenue Bonds of 1975," (hereinafter the "1975 Bonds") dated January 1, 1975, now outstanding in the amount of Six Million Fifty Thousand Dollars (\$6,050,000), bearing interest at the rates of six and five-tenths percent (6.5%), six and seven-tenths percent (6.7%) or five percent (5%) per annum, depending on the maturities, maturing on August 1 in the years 1982 to 1997 inclusive, which bonds are on a parity with the 1959 Bonds, 1961 Bonds and 1970 Bonds and also constitute a first charge upon the net revenues of the sewage works; and

WHEREAS, the ordinances authorizing the issuance of the now outstanding 1959 Bonds, 1961 Bonds, 1970 Bonds and 1975 Bonds permit the issuance of additional bonds ranking on a parity with said bonds provided certain conditions can be met, and the City finds that the finances of said sewage works are such as will enable meeting the conditions for the issuance of additional parity bonds and that, accordingly, the additional

revenue bonds shall be on a parity with the now outstanding 1959 Bonds, 1961 Bonds, 1970 Bonds and 1975 Bonds; and

WHEREAS, the Common Council finds that certain bonds may be issued at approximately the same time as the bonds to be issued hereunder which bonds are tentatively designated "Sewage Works Revenue Bonds of 1982" (hereinafter the "1982 Bonds") and which bonds will also rank on a parity with the 1959 Bonds, 1961 Bonds, 1970 Bonds and 1975 Bonds; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said additional revenue bonds have been complied with in accordance with the provisions of the Act hereinbefore referred to; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That the City proceed with the construction of additions and improvements to its sewage works in accordance with the plans and specifications heretofore or from time to time prepared and filed by City engineers, which plans and specifications are by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein and two copies of which are now on file in the office of the Clerk of the City of Fort Wayne, Indiana, and are open for public inspection pursuant to I.C. 36-1-5-4, that the cost of construction of said additions and improvements, including the funding of a debt reserve in the amount of \$600,000 and the cost of issuance shall not exceed the sum of Four Million Dollars (\$4,000,000) without further authorization from this Common Council. The terms "sewage treatment works," "works," and other like terms where used in this ordinance shall be construed to mean and include all structures and property of the City's sewer utility, including items defined at I.C. 36-9-1-8. Said additions and improvements to the sewage works shall include facilities to construct interceptor sewers being partially financed by federal and state grants and shall be

constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications are hereby approved. Said additions and improvements shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the provisions of I.C. 36-9-23, and all acts supplemental thereto, relating to the issuance of revenue bonds, hereinafter sometimes referred to as the "Act" or "Acts."

Sec. 2. The City shall issue its sewage works revenue bonds in the amount of Four Million Dollars (\$4,000,000) for the purpose of procuring funds to apply on the cost of said works, including the funding of a debt reserve in the amount of \$600,000 and the cost of issuance. Any provisions of this ordinance to the contrary notwithstanding, said bonds shall rank on a parity with the outstanding 1959 Bonds, 1961 Bonds, 1970 Bonds and 1975 Bonds and, if issued, the 1982 Bonds.

Said bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000), numbered consecutively from 1, dated as of the first day of the month in which sold, and shall bear interest at a rate or rates not exceeding fourteen percent (14%) per annum (the exact rate or rates to be determined by bidding), payable on the first days of February and August in each year, beginning August 1, 1982. Such interest shall be evidenced by coupons attached to said bonds. Both bonds and interest coupons shall be payable in lawful money of the United States of America, at the principal office of the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or at the option of the holder, at the Continental Illinois National Bank and Trust Company, in the City of Chicago, Illinois, or at the Irving Trust Company, in the Borough of Manhattan, in the City and State of New York, and such bonds shall mature serially in numerical order on August 1 in the years and amounts as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1985	\$ 60,000	1993	\$170,000
1986	70,000	1994	195,000
1987	80,000	1995	220,000
1988	90,000	1996	360,000
1989	100,000	1997	410,000
1990	115,000	1998	825,000
1991	130,000	1999	940,000
1992	150,000	2000	85,000

The bonds of this issue are not redeemable prior to maturity.

Sec. 3. Said bonds shall be signed in the name of the City of Fort Wayne by manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the City Controller and attested by the manual or facsimile signature of the Clerk, who shall affix the seal of said City to each of said bonds manually or shall have the seal imprinted or impressed thereon by facsimile or by any other means. The interest coupons attached to said bonds shall be executed by placing thereon the facsimile signatures of the Mayor and City Controller, and said officials, by the signing of said bonds, shall adopt as and for their own proper signatures their facsimile signatures appearing on said coupons. Said bonds may, where appropriate, bear the manual or facsimile signatures of validly appointed Deputy officials. Said bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

Said bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the City Controller in the City of Fort Wayne, said City Controller shall register said bonds as to principal without charge or expense to the holder. Such registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered owner in person or by his attorney duly authorized and similarly noted on such bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect

the negotiability of the interest coupons attached thereto, but such coupons shall continue to pass by delivery merely and shall remain payable to bearer.

Said bonds, the 1959 Bonds, 1961 Bonds, 1970 Bonds, 1975 Bonds, and, if issued, the 1982 Bonds, and any bonds ranking on a parity therewith, as to both principal and interest, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the net revenues (herein defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) derived from the sewage works of the City, including the works heretofore constructed and all additions and improvements thereto and replacements thereof presently or subsequently constructed or acquired. The City shall not be obligated to pay said bonds or the interest thereon except from the net revenues of said works, and said bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Sec. 4. The form and tenor of said bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA

State of Indiana

County of Allen

No. _____

\$5,000

CITY OF FORT WAYNE
SEWER CONNECTION REVENUE BOND OF 1982

The City of Fort Wayne, in Allen County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered, then to the registered holder, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on the first day of August, ____ and to pay interest thereon from the date hereof until the principal is paid, at the rate of ____ percent (____%) per annum, payable on the first days of February and August in each year, beginning on

August 1, 1982, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in lawful money of the United States of America, at the principal office of the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or at the option of the holder, Continental Illinois National Bank and Trust Company, in the City of Chicago, Illinois, or at the Irving Trust Company, in the Borough of Manhattan, in the City of New York.

This bond is one of an authorized issue of eight hundred (800) bonds of the City of Fort Wayne, of like date, tenor and effect, except as to numbering, interest rates, and dates of maturity, in the total amount of Four Million Dollars (\$4,000,000), numbered from 1 to 800 inclusive, issued for the purpose of providing funds to be applied on the cost of additions and improvements to the City's sewage works, including the funding of a debt reserve in the amount of \$600,000 and the cost of issuance, as authorized by an ordinance adopted by the Common Council of the City of Fort Wayne on the _____ day of _____, 1982, entitled "An Ordinance concerning the construction of additions and improvements to the sewage works of the City of Fort Wayne, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the holders of said revenue bonds, other matters connected therewith and repealing ordinances inconsistent therewith," and in strict compliance with the provisions of I.C. 36-9-23.

Pursuant to the provisions of said Act and said ordinance, the principal and interest of this bond and all other bonds of said issue, the Sewage Works Improvement Revenue Bonds, dated November 1, 1959, the Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, the Sewage Works Improvement Revenue Bonds of 1970, dated April 1, 1970, the Sewage Works Improvement Revenue Bonds of 1975, dated January 1, 1975, and certain Sewage Works Revenue Bonds of 1982 ("1982 Bonds") which may be issued by the City of Fort Wayne at approximately the same time as this bond and all other bonds of said issue, and any bonds ranking on a parity therewith, are payable solely from the Sewage Works Sinking Fund, or, as to the 1982 Bonds, will be payable from the Sewage Works Sinking Fund (heretofore created by Ordinance No. 1939, adopted July 26, 1938, and continued by the ordinances authorizing the issuance of the aforementioned outstanding bonds) to be provided from the net revenues (herein defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) derived from the sewage works of the City of Fort Wayne, including the additions and improvements constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. This bond and the issue of which it is a part are of equal priority, in respect to the application of said net revenues, with certain Sewage Works Improvement Revenue Bonds, dated November 1, 1959, now outstanding in the amount of One Million Eighty-five Thousand Dollars (\$1,085,000), bearing interest at the rates of three and seven-eighths percent (3 7/8%) or three and one-quarter percent

(3 1/4%) per annum, depending on the maturities and maturing annually over a period ending on August 1, 1990, with certain Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, now outstanding in the amount of One Million One Hundred Ninety Thousand Dollars (\$1,190,000), bearing interest at the rate of three and three-quarters percent (3 3/4%) per annum, maturing annually over a period ending on August 1, 1993, with certain Sewage Works Improvement Revenue Bonds of 1970, dated April 1, 1970, now outstanding in the amount of Two Million Two Hundred Fifty-five Thousand Dollars (\$2,255,000), bearing interest at the rates of six and seven-tenths percent (6.7%), six and five-tenths percent (6.5%), six and seven-tenths percent (6.7%), six and nine-tenths percent (6.9%) or seven percent (7.0%) per annum, depending on the maturities, and maturing annually over a period ending on August 1, 1995 and with certain Sewage Works Improvement Revenue Bonds of 1975, dated January 1, 1975, now outstanding in the amount of Six Million Fifty Thousand Dollars (\$6,050,000), bearing interest at the rates of six and five-tenths percent (6.5%), six and seven-tenths percent (6.7%) or five percent (5%) per annum, depending on the maturities, maturing annually over a period ending on August 1, 1997, in accordance with the terms thereof. This bond shall also be on a parity with the 1982 Bonds, if issued. This bond shall not constitute an indebtedness of the City of Fort Wayne within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the City shall not be obligated to pay this bond or the interest thereon except from said special fund provided from said net revenues.

The City of Fort Wayne irrevocably pledges the entire net revenues of said sewage works to the prompt payment of the principal of and interest on the bonds authorized by said ordinance, of which this is one, and any bonds ranking on a parity therewith, including said Sewage Works Improvement Revenue Bonds, dated November 1, 1959, the Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, the Sewage Works Improvement Revenue Bonds of 1970, dated April 1, 1970, the Sewage Works Improvement Revenue Bonds of 1975, dated January 1, 1975, and the 1982 Bonds, if issued, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works, to provide for proper depreciation, for the payment of the sums required to be paid into said Sinking Fund under the provisions of said Acts and said ordinance. In the event the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the holder of this bond shall have all of the rights and remedies provided for in said I.C. 36-9-23 and the acts amendatory thereof and supplemental thereto, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

The City of Fort Wayne further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the net revenues of said

works to meet (a) the interest on all bonds payable from the revenues of said sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying all bonds and interest, (c) the principal of all bonds payable from the revenues of said sewage works, as such principal shall fall due, and (d) an additional amount as a margin of safety, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten percent (10%) of all other amounts so required to be paid into said sinking fund together with other sums to be held as reserves as provided in said ordinance. Such required payments shall constitute a first charge upon all the net revenues of said works on a parity with the aforementioned Sewage Works Improvement Revenue Bonds, dated November 1, 1959, Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, Sewage Works Improvement Revenue Bonds of 1970, dated April 1, 1970 and the Sewage Works Improvement Revenue Bonds of 1975, dated January 1, 1975 and the 1982 Bonds, if issued.

If any bond or interest coupon shall not be presented for payment on the date fixed therefor, the City may deposit in trust with the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, an amount sufficient to pay such bond or interest coupon, as the case may be, and thereafter the holder shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This bond and all other bonds of said issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the City Controller in the City of Fort Wayne, Indiana, in the name of the owner hereof, and such registration noted hereon by said City Controller. Thereafter no transfer hereof shall be valid unless made at said office by the registered owner in person or by his duly authorized attorney and similarly noted hereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

The bonds of this issue are not redeemable prior to maturity.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, State of Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of the Mayor of the City, countersigned by the manual or facsimile signatures of the City Controller, its corporate seal to be hereunto affixed manually, or imprinted or impressed thereon by facsimile or by any other means, and attested manually or by facsimile by its Clerk, and the interest coupons

hereto attached to be executed by placing thereon the facsimile signatures of the Mayor and City Controller, as of the first day of _____, 1982.

CITY OF FORT WAYNE

By _____
Mayor

Countersigned:

City Controller

Attest:

Clerk

(Interest Coupon)

Coupon No. _____ \$ _____

On _____ 1, _____, the City of Fort Wayne, Indiana, will pay to bearer, at the principal office of the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or at the option of the holder, at the Continental Illinois National Bank and Trust Company, in the City of Chicago, Illinois, or at the Irving Trust Company, in the Borough of Manhattan, in the City of New York, New York, out of its Sewage Works Sinking Fund, the amount shown hereon in lawful money of the United States of America, being the interest then due on its Sewage Works Revenue Bond of 1982, dated _____ 1, 1982, No. _____.

CITY OF FORT WAYNE

By _____ (facsimile)
Mayor

City Controller (facsimile)

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the Clerk in the City of Fort Wayne, Indiana. No writing hereon except by the City Controller.

Date of Registry	In Whose Name Registered	City Controller
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sec. 5. The City Controller is hereby authorized and directed to have said bonds and coupons prepared, and the Mayor, Clerk and City Controller are hereby authorized and directed to execute said bonds and the interest coupons to be

attached thereto, in the form and manner herein provided. The City Controller or the Clerk are hereby authorized and directed to deliver said bonds to the purchaser thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the City Controller or the Clerk shall collect the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of said bonds, plus accrued interest from the date thereof to the date of delivery. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City, payable out of the net revenues of the City's sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of acquisition, construction and installation of said additions and improvements to the sewage works hereinbefore referred to, funding a debt reserve in the amount of \$600,000 and the expenses necessarily incurred in connection therewith. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

Sec. 7. Prior to the sale of said bonds, the City Controller shall cause to be published a notice of such sale in the News-Sentinel and the Journal-Gazette, the only newspapers published in the City of Fort Wayne, Indiana, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, all in accordance with I.C. 5-1-11 and I.C. 5-3-1. A notice of sale may also be published one time in The Indianapolis Commercial, and a notice or summary notice may also be published in The Bond Buyer in New York, New York. The bond sale notice shall state the time and place of sale, the

character and amount of the bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller or the Clerk and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Forty Thousand Dollars (\$40,000) to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for said bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth ($1/8$) or one-tenth ($1/10$) of one percent (1%). ~~The rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity and not more than four (4) different interest rates shall be named by a bidder.~~ No conditional bids will be considered. The opinion of Ice Miller Donadio & Ryan, bond counsel of Indianapolis, Indiana, approving the legality of said bonds, will be furnished to the purchaser at the expense of the City.

The bonds shall be awarded by the City Controller to the highest qualified bidder who has submitted his bid in accordance with the terms of this ordinance and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable

bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which is lower than the highest bid received at the time of the advertised sale will be considered.

Sec. 8. The accrued interest and premium received at the time of the delivery of the bonds, if any, shall be deposited in the Sewage Works Sinking Fund heretofore created by Ordinance No. 1939, adopted July 26, 1938 and continued by the ordinances authorizing the issuance of the 1959 Bonds, the 1961 Bonds, the 1970 Bonds and the 1975 Bonds. Bond proceeds in the amount of \$600,000 will be deposited, pursuant to the advice of the City's financial advisor that such funding is a necessary expense of financing the works under I.C. 36-9-23-11 and the inclusion of that funding in the engineer's estimate of the cost of the works, in the Sewage Works Sinking Fund described in Section 9 hereof, which sum will be held as a debt service reserve therein and credited to the City's obligation thereunder to accumulate net revenues therein as a margin of safety. Said financial advisor has also advised the City that said reserve is reasonably required in order to enhance the marketability of the bonds and that, without this reserve, the bonds would be unmarketable or the interest rate demanded by investors would affect the economic feasibility of the project. The remaining proceeds from the sale of said bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Fort Wayne, Sewage Works Construction Account." All funds deposited to the credit of said Sewage Works Sinking Fund or Sewage Works Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly I.C. 5-13-1, and the acts amendatory thereof and supplemental thereto. The depository or depositories for said

Sewage Works Sinking Fund shall be a bank which shall be a member of the Federal Reserve System and of the Federal Deposit Insurance Corporation, or like organizations having similar powers and duties. The funds in said special account or accounts shall be expended only for the purpose of paying the cost of the works, as defined in I.C. 36-9-1-8 and 36-9-23, or as otherwise required by said Acts, or for funding a debt reserve in the amount of \$600,000 or for the expenses of issuance of the bonds. The cost of obtaining the opinion of Ice Miller Donadio & Ryan shall be considered as a part of the cost of the project on account of which the bonds are issued, and shall be paid out of the proceeds of the bonds or out of the revenues of the sewage works.

The Common Council authorizes the insurance of the bonds with a municipal bond insurance company if the City Controller, acting on the advice of the City's financial consultant and engineer, finds that such insurance advisable and a necessary expense of financing the sewage works. The cost of obtaining said insurance shall be considered as a part of the cost of the project on account of which the bonds are issued, and shall be paid out of the proceeds of the bonds or out of other funds of the sewage works.

The City covenants that it will not invest the proceeds of said bonds, or any moneys treated as proceeds by the Internal Revenue Service, in any manner, or take or fail to take any other action, which would result in said bonds constituting "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, or the Treasury Regulations or any Revenue Rulings promulgated thereunder, or as determined by any court of competent jurisdiction.

Any balance or balances remaining unexpended in such special account or accounts after completion of the works, which are not required to meet unpaid obligations incurred in connection with such construction, shall be paid into the

Sewage Works Sinking Fund and shall be used solely for the purposes of said fund.

Sec. 9. The special fund designated "Sewage Works Sinking Fund" created by Ordinance No. 1939, adopted on July 26, 1938 and continued for the payment of the outstanding 1959 Bonds, 1961 Bonds, 1970 Bonds and 1975 Bonds is hereby designated as the special fund for the payment of the interest on and principal of the revenue bonds authorized by this ordinance and the payment of any fiscal agency charges in connection with the payment of the bonds and coupons. Said fund shall be continued until all of the bonds issued under said prior ordinances and this ordinance have been paid. There shall be set aside and paid into said Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the net revenues of said sewage works for the payment of (a) the interest on all bonds which by their terms are payable from the revenues of the sewage works, as such interest shall fall due, (b) the necessary fiscal agency charges for paying said bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the sewage works as they fall due, and (d) an additional amount as a margin of safety, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten percent (10%) of all other amounts so required to be paid into said Sinking Fund. The term "net revenues" as used in this section shall be construed to mean the revenues after deduction only for the reasonable cost of operation, maintenance and repair. The monthly payments into the said Sinking Fund shall be in an amount equal to at least one-twelfth (1/12) of the amount required for such payments during the then next succeeding twelve (12) calendar months and shall continue until such time as said fund shall contain an amount sufficient to pay all of the bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Sewage Works Sinking Fund, all of the

net revenues of said sewage works not used in making said required sinking fund payments shall be set aside and paid into said Sinking Fund monthly, as available, until there has been accumulated in said Sewage Works Sinking Fund, over and above said required payments but including the funded reserves and investment income thereon, an amount equal to the sum of the principal and interest on all then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months. Said Fund shall be maintained at such levels, and additional amounts of net revenues shall be deposited in said Fund to the extent necessary to maintain such levels.

In no event shall any part of the Sewage Works Sinking Fund be used in purchasing bonds, except to the extent that the amount then in said Sinking Fund exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such purchase, together with all interest on the bonds payable. Any such excess of funds above said required levels may be used in purchasing outstanding bonds at a price less than the applicable price at maturity, if first approved by the Board of Public Works and Safety. Moneys in said Sinking Fund shall not be used for any other purpose whatsoever except as provided in this ordinance.

If the City shall, for any reason, fail to pay into said Sinking Fund the full amount and at the respective times above stipulated, then an amount equivalent to such deficiency shall be set apart and paid into said fund from the first available revenues and same shall be in addition to the minimum amounts otherwise herein provided to be so set apart and paid.

Withdrawals shall be made from the said Sinking Fund and remitted to the places of payment of the interest and principal to meet such payments when due and it is to be understood that appropriate arrangements will be made so that the coupons and bonds will be promptly paid when due and presented at any of the designated alternate places of payment.

The City covenants that it will not make any investment of moneys in said Fund in any manner, or take or fail to take any other action, which would result in the bonds constituting arbitrage bonds within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, or the Treasury Regulations or any Revenue Rulings promulgated thereunder, or as determined by any court of competent jurisdiction.

The Sinking Fund, as aforesaid, shall be used solely and only and is hereby pledged for the purpose of paying principal of and interest on the bonds which by their terms are payable from said funds. Upon the delivery of said bonds and the receipt of the proceeds all sums received as accrued interest and premium, if any, shall be placed in the Sinking Fund.

Section 10. (a) The City covenants that the interception sewers constructed hereunder shall be suitable for use as local or lateral sewers abutting or adjoining property served by the works. The City further covenants that the connection fees shall be based on the pro rata cost of constructing said sewers.

(b) The Common Council hereby determines, pursuant to I.C. 36-9-23-29, that the proceeds of connection fees are to be used as net revenues of the sewage works and covenants that said net revenues shall hereinafter be used as provided herein and in the ordinances authorizing the issuance of the 1959 Bonds, 1961 Bonds, 1970 Bonds, 1975 Bonds and the 1982 Bonds, if issued.

Section 11. In the event that all required payments into the Sewage Works Sinking Fund have been met to date and there has been accumulated as a reserve in said Sewage Works Sinking Fund, including the bond proceeds deposited, over and above said payments, an amount equal to the respective sums required by Section 9, and there has been accumulated and reserved funds in an amount sufficient for operation, repair and maintenance of the works for the then next succeeding twelve (12) calendar months, and for depreciation, then any excess revenues of the works available may be placed in the Sewage Works Improvement

Fund. Moneys in said Fund may be used to pay the costs of improvements, betterments, extensions, enlargements and additions to the works. No revenues of the works shall be deposited in or credited to the Sewage Works Improvement Fund which will interfere with the requirements of the Sewage Works Sinking Fund, the accumulation of the required reserve therein, or with the requirements as to reserving funds for the operation, maintenance and repair of the works and for depreciation. All or any portion of the funds accumulated and reserved for operation, repair and maintenance for the then next succeeding twelve (12) calendar months shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the bonds payable from said Sinking Fund.

Section 12. All revenues received on account of the sewage works shall be segregated and kept in a special fund separate and apart from all other funds of the City. Out of this fund the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid and the requirements of the Sewage Works Sinking Fund shall be met. The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made and showing all revenues collected from said works and deposited in said fund, and all disbursements made therefrom on account of the operation of the works, and to meet the requirements on the Sewage Works Sinking Fund, also all other financial transactions relating to said works, including the amounts set aside or credited to the Sewage Works Sinking Fund and Sewage Works Improvement Fund, and the cash balance in each of said funds as of the close of the preceding fiscal year. There shall be prepared and furnished, upon written request, to the original purchaser of the bonds, and to any holder of the bonds at the time then outstanding, not more than ninety (90) days after the close of each fiscal year, income and expense and balance sheet statements of the works,

covering the preceding fiscal year, which annual statements shall be certified by the City Controller, or the person charged with the duty of auditing the books and records relating to said works, or by licensed independent public accountants employed for that purpose. Copies of all such statements and reports shall be kept on file in the office of the City Controller. Any holder or holders of the bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

Sec. 13. The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewerage system of the City, or that in any way uses or is served by such works; that such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works, and for the payment of the sums required to be paid into the Sewage Works Sinking Fund by said governing Act and this ordinance. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, depreciation and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and service rendered to the City and all departments thereof as the charges accrue. The rates or charges so established shall apply to any and all use of such works by and service rendered to the City and all departments thereof, and shall be paid semi-annually by the City or the various departments thereof as the charges accrue.

Sec. 14. If, prior to the maturity of the bonds issued hereunder, (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America, the principal of and the interest on which when due will provide sufficient moneys, or (iii) time certificates of deposit fully secured as to both principal and interest by obligations of the kind described in (ii) above of a bank or banks the principal of and interest on which when due will provide sufficient moneys, shall be held in trust for such purpose, to pay the whole amount of the principal and the interest due and payable at maturity upon all of the bonds and coupons then outstanding; then and in that case the bonds issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the net revenues of the City's sewage works.

Sec. 15. The City reserves the right to authorize and issue additional bonds, payable out of the revenues of its sewage works, ranking on a parity with the bonds authorized by this ordinance, for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof.

(b) As of the date of issuance of such additional bonds, there shall have been accumulated and set aside funds in an amount sufficient for operation, repair and maintenance of the works for the then next succeeding twelve (12) calendar months, and the balance in the Sewage Works Sinking Fund shall equal not less than the reserve requirements set forth in Section 9 hereof.

(c) The net revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this

ordinance shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of said parity bonds, the sewage rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have produced net operating revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings shall be prepared by a certified public accountant employed by the City for that purpose, who shall certify that he has no pecuniary interest in said additions, extensions or improvements or the financing thereof in any way whatsoever other than to analyze the records of said sewage works and to prepare said showings.

(d) The principal of said additional parity bonds shall be payable on August 1 and the interest on said additional parity bonds shall be payable semi-annually on February 1 and August 1 in the years in which such principal and interest are payable.

Sec. 16. For the purpose of further safeguarding the interests of the holders of the bonds herein authorized, it is specifically provided as follows:

(a) All contracts let or hereinafter to be let by the City in connection with the construction of said additions and improvements to the sewage works shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the

completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) Said additions and improvements shall be constructed under the supervision of the City's engineers. All estimates for work done or material furnished shall first be checked by the engineers and approved by the City.

(c) The City shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of said works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged; or if not used for that purpose shall be treated and applied as net revenues of the works.

(e) So long as any of the bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber such works, or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except replaced equipment which may become worn out or obsolete.

(f) Except as hereinbefore provided in Section 14 hereof, so long as any of the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, executed, or issued by the City except

such as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized are retired or defeased pursuant to Section 14 hereof coincidentally with the delivery of such additional bonds or other obligations.

(g) The City shall take all action or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil, or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, cause all such sanitary sewers to be connected with said sewage works.

(h) The provisions of this ordinance shall constitute a contract by and between the City of Fort Wayne and the holders of the sewage works revenue bonds herein authorized, and after the issuance of said bonds, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the holders of said bonds, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such holders so long as any of said bonds or the interest thereon remain unpaid. Nothing in Section 16 hereof shall be construed as violating this provision.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes herein set forth, and the holders of the bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sewage Works Bond Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The holders of said bonds shall have all of the rights, remedies and privileges

set forth in the provisions of the governing Acts hereinbefore referred to, including the right to have a receiver appointed to administer said sewage works, in the event of default in the payment of the principal of or interest on any of the bonds herein authorized or in the event of default in respect to any of the provisions of this ordinance or the governing Acts.

Sec. 17. Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than sixty-six and two-thirds per cent (66-2/3%) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on any bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

The holders of not less than sixty-six and two-thirds per cent (66-2/3%) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk of the City. No holder of any bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all holders of bonds issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the holders of the bonds authorized by this ordinance, and the terms and provisions of the bonds and this ordinance, or any supplemental ordinance, may be modified or altered in any respect with the consent of the City and the consent of the holders of all the bonds issued pursuant to this ordinance then outstanding.

Sec. 18. The estimate of the rates and charges is:

Article VI. User Charges

Sec. 24-27. User Volume Charges.

The water usage schedule upon which charges for services rendered by the Sewer Utility shall be based on water consumption unless otherwise metered or exempted in accordance with the following user classifications and the following charges for services for each such classifications:

Service Charge (cents per 100 cu. ft.)

	<u>Class of User</u>	
	<u>Domestic</u>	<u>Manufacturing</u>
Treatment	18.74	18.74
Conveyance, Collection, Billing	18.23	11.88
Capital	<u>11.73</u>	<u>8.88</u>
Total User Charge	48.70	39.50

Sec. 24-28. User Minimum Charges.

In the event the monthly sewage service charge calculated in accordance with the water consumption schedule in Sec. 24-27 does not exceed the minimum monthly charge for each class of user as set forth thereafter user shall pay said minimum monthly charge in lieu of the charge calculated based on water usage, as follows:

<u>Water Meter Size</u>	<u>Minimum Monthly Charge</u>
5/8 - 3/4"	\$ 2.43
1 - 1/2"	8.58
2" 17.51	
3" 35.18	
4" 58.48	
6" or larger	162.44

Sec. 24-29. User Flat Charges.

In the event any user is not a metered water customer, there shall be imposed flat charge rates as follows:

<u>Classification of Customer</u>	<u>Monthly Flat Charge (1)</u>	
	<u>In-City</u>	<u>Out-City</u>
Domestic User - Single Family Dwelling	\$ 4.87	\$ 5.84
Domestic User - Multi-Family Dwelling	To be estimated by City	
Commercial and Industrial User	To be estimated by City	

(1) Estimates of monthly flat charges for multi-family dwellings shall be based on the number of family units accommodated by the system multiplied by the single family dwelling monthly charges. Estimates of monthly flat charges

for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based upon outfall measurements where available.

Sec. 24-29A. Special Capital Surcharge.

Each user discharging wastes into the sewage systems acquired by the City of Fort Wayne, Indiana, from and located in St. Joseph Township and Adams Township, Allen County, Indiana, as well as all future extensions thereof shall be subject to and shall pay a special capital surcharge in the amount of \$4.65 per month in addition to all other sewer service charges or other charges imposed by this Ordinance. Said capital surcharge shall be collected from said users until such time as the principal of and all interest and other costs arising from the borrowing of funds by the City for the acquisition of said sewer system shall have been paid in full from the total of the capital surcharge herein imposed.

Sec. 24-30. Contract Customers - Unit and Other Charges.

In the event the City consummates a contract to serve as a regional treatment plant for any other municipality or private regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for the following unit charges:

(a) Volume Charge (cents per 100 cu. ft.)

Treatment	18.74
Capital Charge	<u>11.76</u>
30.50	

(b) Variable Charge (cents per 100 cu. ft.)

A variable charge for conveyance and collection costs attributable to that portion of the conveyance system and operating costs associated therewith used by the contract customer shall be computed by the City and added to the volume charge.

(c) Flat Charge.

In addition to the foregoing charges based on volume of sewage treated and conveyed each contract customer will pay a monthly billing charge of \$.55 and a monthly surveillance charge of \$82.20.

(d) Excess Strength of Wastes Surcharge.

In the event a contract customer contributes waste having a strength in excess of domestic waste characteristics, as hereinbefore defined, a surcharge based on the following unit process charge will be in effect for all waste found to be in excess of limitations:

	<u>Cents Per Pound</u>
Suspended Solids - (SS)	3.931
Biochemical Oxygen Demand - (BOD)	3.926
Phosphorus - (P)	37.619

(e) Capital Surcharge.

In the event contract customer delivers sewage for treatment to City for a period of 90 consecutive days which is in excess of base MGD contracted for, then customer will be subject to an additional capital charge computed at the capital charge (per 100 cu. ft.) then in effect times the excess percentage of MGD represented by dividing actual MGD by contracted MGD.

(f) Other Provisions.

In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by this Chapter, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a Sewer Use Ordinance, Industrial Cost Recovery System and User Charge System acceptable to the City and in conformance with the City's obligations under Sec. 204(b)(1) Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35-928-1 and 35-928-2, and 35-935-13.

Sec. 24-31. Bulk Waste Charges.

Industrial - For all industrial waste picked up from customer and hauled in City's vehicles to Plant - \$163.00 per load.

Domestic - For all domestic waste delivered to plant by customer's truck or tank - \$23.85 per load. For purposes of computing charges hereunder, a load is defined as 1,000 gallons of tank capacity or fraction thereof.

Sec. 24-32. Annual Review of Service Charges.

Prior to May 1 of each year, the General Auditor of the City Utilities and an independent certified public accountant employed for that purpose shall submit to the Board of Public Works a comparison of the calculated unit cost for flow, removal of BOD, suspended solids, and phosphorus per year, with the unit charges currently in effect from which the Board shall determine whether the current service charges and surcharges are adequate or should be changed. The methodology utilized in developing this cost comparison shall include:

1. A system including the distribution of the cost of operation and maintenance of the treatment works of the WPC Utility to each user class in proportion to such user's contribution to the total waste loading of the treatment works. Factors such as strength, volume, and delivery flow characteristics shall be considered and included as the basis for the user's contribution to insure a proportional distribution of operation and maintenance and replacement costs to each user class.

2. Total annual service charges and surcharges collected from each individual user class shall be deemed sufficient if said charges have generated during the prior operating period sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the Utility, including cost of management, system repair and replacement, debt retirement and other costs incidental to the Utility Operation attributable to such class.

Article VII. Strength-of-Wastes Surcharge

Sec. 24-35. Rates of Surcharge.

The rate of surcharge for each of the aforementioned constituents

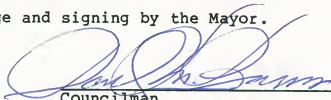
- | | |
|--|---------------------------|
| a. For suspended solids (SS) | 3.931 cents
per pound |
| b. For biochemical oxygen demand - (BOD) | 3.926 cents
per pound |
| c. For phosphorus (P) | 37.619 cents
per pound |

Sec. 24-36. Waste Evaluation Charges.

All users discharging wastes into the system requiring continuing surveillance sampling and waste evaluation shall be subject to a monthly fixed charge to cover the costs of such services in the amount of \$82.20 per discharge point.

Sec. 19. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this ordinance shall not be deemed in any way to repeal, amend, alter or modify the ordinances authorizing the issuance of the 1959 Bonds, the 1961 Bonds, the 1970 Bonds or the 1975 Bonds, or the 1982 Bonds, if issued, nor be construed as adversely affecting the rights of the holders of the aforementioned outstanding 1959 Bonds, 1961 Bonds, 1970 Bonds or the 1975 Bonds or 1982 Bonds, if issued.

Sec. 20. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.


Councilman

Approved as to form and legality this 14th day of May, 1982.


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Police (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, the _____ day of _____, at _____ o'clock _____ M., E.S.T.

DATE: 5-11-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Burns, seconded by Eisbart, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>8</u>	<u>0</u>	_____	<u>1</u>	_____
BRADBURY	<u>X</u>	_____	_____	_____	_____
BURNS	<u>X</u>	_____	_____	_____	_____
EISBART	<u>X</u>	_____	_____	_____	_____
GIAQUINTA	<u>X</u>	_____	_____	_____	_____
NUCKOLS	_____	_____	_____	<u>X</u>	_____
SCHMIDT	<u>X</u>	_____	_____	_____	_____
SCHOMBURG	<u>X</u>	_____	_____	_____	_____
STIER	<u>X</u>	_____	_____	_____	_____
TALARICO	<u>X</u>	_____	_____	_____	_____

DATE: 5-25-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING-MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 5-88-82
on the 25th day of May, 1982

ATTEST: (SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of May, 1982, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 1st day of June, 1982, at the hour of 4 o'clock P. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, the _____ day of _____, at _____ o'clock _____ M., E.S.T.

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	<u>0</u>	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>X</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>X</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	<u>X</u>	_____
<u>SCHMIDT</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: _____

CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. _____ on the _____ day of _____, 19____.

ATTEST:

(SEAL)

CHARLES W. WESTERMAN - CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this _____ day of _____ 19____, at the hour of _____ o'clock _____ M., E.S.T.

WIN MOSES, JR. - MAYOR

BILL NO. S-82-05-05

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN
ORDINANCE concerning the construction of additions and improvements
to the sewage works of the City of Fort Wayne, the issuance of
connection revenue bonds to provide the cost thereof, the
collection, segregation and distribution of the revenues of said works,
the safeguarding of the interests of the holders of said connection
revenue bonds, other matters connected therewith and repealing
ordinances inconsistent therewith

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE do PASS.

PAUL M. BURNS - CHAIRMAN

MARK E. GIAQUINTA - VICE CHAIRMAN

JAMES S. STIER

JANET G. BRADBURY

ROY J. SCHOMBURG

5-25-82
DATE _____ CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

DIGEST SHEET

(as amended)

S-82-05-05.

TITLE OF ORDINANCE SpecialDEPARTMENT REQUESTING ORDINANCE City Utilities

SYNOPSIS OF ORDINANCE An Ordinance authorizing the City of Fort Wayne
to issue \$4 Million of City of Fort Wayne Sewer Connection Bonds of
1982 for the purpose of providing funds to pay the City's share of
grants associated with construction of interceptor sewers to which
2,350 additional residents will be required by law to connect.

EFFECT OF PASSAGE Financing of connections to interceptor sewers.

EFFECT OF NON-PASSAGE None of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$4 Million plus interest
to be repaid by residents required by law to connect to interceptor
sewers.

ASSIGNED TO COMMITTEE (PRESIDENT) _____



The City of Fort Wayne

OFFICE OF THE CITY CLERK

Charles W. Westerman, Clerk — Room 122

May 27, 1982

Ms. Judy High
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. High:

Please give the attached full coverage on the dates of
May 29 and June 5, 1982, in both the News Sentinel
and Journal Gazette.

RE: Notice of determination
to construct and finance
improvements to Fort Wayne
Sewage Works
Bill No. S-82-05-05 & S-82-05-07

Please send us eight copies of the Publisher's Affidavit
from both newspapers.

Sincerely,

Charles W. Westerman
City Clerk

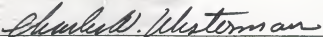
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ENCL: 2

NOTICE OF DETERMINATION
TO CONSTRUCT AND FINANCE
IMPROVEMENTS TO FORT WAYNE
SEWAGE WORKS

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on May 25, 1982, the Common Council adopted Ordinance No. 582-05-05, thereby determining to construct improvements to the City's sewage works consisting of certain additions and improvements to construct interception sewers being partially financed by federal and state grants pursuant to plans and specifications prepared by the engineering staff of the City of Fort Wayne, Indiana.

The cost of the improvements to be funded locally is estimated by the engineers, including funded debt service reserves and incidental expenses, to be \$4,000,000. Said ordinance further directed that this cost of the project, over and above state and federal grants, be financed by the issuance of revenue bonds in the amount of \$4,000,000, which bonds will be payable solely from the net revenues of the sewage works and which net revenues shall include the proceeds of certain connection fees pursuant to said ordinance and I.C. 36-9-23-39. The bonds will be sold at public sale pursuant to I.C. 5-1-11, at an interest rate not to exceed 14% per annum to be determined by bidding and will mature annually over a period ending August 1, 2000. A copy of said ordinance may be examined at the office of the Clerk. Objections to said project and bonds may be filed in the time and manner provided by the Indiana Code, Title 36, Article 9, Chapter 23.

Dated this 27th day of May, 1982.


Charles Westerman, Clerk
City of Fort Wayne

Nodka

Both newspapers twice
one week apart.

First one, soon as possible.

John J. Wernet

Port Wayne Common Council

(Governmental Unit)

Allen

County, Ind

To... NEWS-SENTINEL Dr.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

53 lines, 1 columns wide equals 53 equivalent lines at .300¢ \$ 15.90
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) 6 extra

TOTAL AMOUNT OF CLAIM.

DATA FOR COMPUTING COST

Width of single column 9.6 picas

Size of type 6 point

Number of insertions 2

Size of quad upon which type is cast .6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date June 5 19 82

Title Clerk

Form 903

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned, D. ROOSE, who, being duly sworn, says that she is, CLERK, of the

NEWS-SENTINEL
DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA town of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times, the dates of publication being as follows:

5/29 - 6/5/82

Subscribed and sworn to before me this 5th day of June 19 82

My commission expires November 29, 1985

NOTICE OF DETERMINATION TO CONSTRUCT AND FINANCE IMPROVEMENTS TO FORT WAYNE SEWAGE WORKS

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on May 25, 1982, the Common Council adopted Ordinance No. 582-05-82, thereby determining to construct improvements to the City's sewage works consisting of certain additions and improvements to construct interception sewers being partially financed by federal and state grants pursuant to plans and specifications prepared by the engineering staff of the City of Fort Wayne, Indiana.

The cost of the improvements to be funded locally is estimated by the engineers, including funded debt service reserves and incidental expenses, to be \$4,000,000. Said ordinance further directed that the cost of the project, over and above state and federal grants, be financed by the issuance of revenue bonds in the amount of \$4,000,000, which bonds will be payable solely from the net revenues of the sewage works and which net revenues shall include the proceeds of certain connection fees pursuant to said ordinance and I.C. 36-8-23-36. The bonds will be sold at public sale pursuant to I.C. 6-11-1-1. The sale rate not to exceed 14% per annum to be determined by bidding and will mature annually over a period ending August 1, 2000. A copy of said ordinance may be examined at the office of the Clerk. Objections to said project and bonds may be filed in the time and manner provided by the Indiana Code, Title 36, Article 5, Chapter 23.

Dated this 27th day of May, 1982.
Charles Westerman, Clerk
City of Fort Wayne

Fort Wayne Common Council

(Governmental Unit)

To... JOURNAL-GAZETTE Dr.

Allen

County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

4

47

2

53

COMPUTATION OF CHARGES

53 lines, 1 columns wide equals 53 equivalent lines at .300¢ \$15.90
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) 6 extra 3.00

TOTAL AMOUNT OF CLAIM.

\$18.90

DATA FOR COMPUTING COST

Width of single column 9.6 picas

Size of type 6 point

Number of insertions 2

Size of quad upon which type is cast. 6

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Amelia De Told

Date June 5 1982

Title CLERK

Form 904

NOTICE OF DETERMINATION
TO CONSTRUCT AND FINANCE
IMPROVEMENTS TO FORT
WAYNE SEWAGE WORKS

Property owners and other interested parties in the City of Fort Wayne are hereby notified that on May 25, 1982, the Common Council adopted Ordinance No. 382-82-05, thereby determining to construct improvements to the City's sewage works consisting of certain additions and improvements to construct interception sewers being partially financed by federal and state grants pursuant to plans and specifications prepared by the engineering staff of the City of Fort Wayne, Indiana.

The cost of the improvements to be funded locally is estimated by the engineers, including funded debt service reserves and incidental expenses, to be \$4,000,000. Said ordinance further directed that this cost of the project, over and above state and federal grants, be financed by the issuance of revenue bonds in the amount of \$4,000,000, which bonds will be payable solely from the net revenues of the sewage works and which net revenues shall include the proceeds of certain connection fees pursuant to said ordinance and I.C. 36-9-23-39. The bonds will be sold at public sale pursuant to I.C. 5-1-11, at an interest rate not to exceed 14% per annum to be determined by bidding and will mature annually over a period ending April 1, 2000. A copy of said ordinance may be examined at the office of the Clerk. Objections to said project and bonds may be filed in the time and manner provided by the Indiana Code, Title 36, Article 5, Chapter 23.

Dated this 27th day of May, 1982.
Charles Westerman, Clerk
City of Fort Wayne
5-29/8-5

PUBLISHER'S AFFIDAVIT

State of Indiana
ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned, ARVILLA DEWALD, who, being duly sworn, says

that she is, CLERK of the

JOURNAL-GAZETTE

a, DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA town

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times, the dates of publication being as follows: 5/29 - 6/5/82

Subscribed and sworn to before me this 5th day of June 1982

Amelia De Told
Notary Public

My commission expires November 29, 1985